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HAROLD BAER  
U.S. DISTRICT JUDGE  
S.D.N.Y.

April 22, 2008

OUR REF: 78/MBU/SL

**BY FAX (212) 805-7901**

The Hon. Harold Baer, Jr.  
 United States District Judge  
 Southern District of New York  
 Daniel P. Moynihan U.S. Courthouse  
 500 Pearl Street, Room 2230  
 New York, NY 10007

Re: Sixteen Thirteen Marine S.A. v. Congentra A.G.  
 08 CV 1318 (HB) – SDNY

Dear Judge Baer:

We write in response to the request by counsel for defendant Congentra made by email today for leave to file a supplemental declaration from Congentra's English solicitor, Mr. Euroff Lloyd-Lewis. It is the position of plaintiff Sixteen Thirteen Marine that the request should be denied as this matter was fully briefed and argued to Judge Baer some time ago. Moreover, Mr. Lloyd-Lewis was present at the hearing held on March 28, 2008 but did not testify. If he had anything further to say beyond what was set forth in his Declaration, he had every opportunity to do so at the hearing. An attempt to seek to submit further testimony, the nature of which has not been revealed, two weeks after the hearing, when plaintiff has no opportunity to cross-examine Mr. Lloyd-Lewis, is wholly inappropriate. Accordingly Sixteen Thirteen Marine objects to the request to reopen the proceeding to submit additional testimony.

The Hon. Harold Baer, Jr.

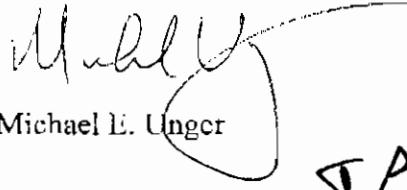
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Notwithstanding the foregoing, if the Court is inclined to permit further submission by defendant Congentra, plaintiff Sixteen Thirteen Marine requests that it be given the opportunity to respond as may be necessary.

We thank the Court for its consideration and courtesy.

Respectfully,  
FREEHILL, HOGAN & MAHAR LLP

  
Michael E. Unger

MEU/mc

cc: BY FACSIMILE (212) 490-6070

Lennon, Murphy & Lennon, LLC  
Attn: Kevin J. Lennon

I am not sure if I have  
indicated. Not only do I have  
open memoranda but  
to argument the fact that a  
decision has not yet been published  
in no way means the record is  
open for more material. Denied

SO ORDERED:

  
Harold Baer, Jr., U.S.D.J.

Date: 4/22/08

Endorsement:

I am not so inclined. Not only do I have your memoranda but I listened to argument and the fact that a decision has not yet been published in no way means the record is open for more material. DENIED.